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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,675	12/04/2003	Thomas J. Bachinski	12929.1076USC1	8465
7590	05/19/2005			EXAMINER
Attention of Matthew A. Doscotch MERCHANT & GOULD P.C. P.O. Box 2903 Minneapolis, MN 55402-0903			LIEU, JULIE BICHNGOC	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/727,675	BACHINSKI ET AL.	
	Examiner	Art Unit	
	Julie Lieu	2636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 25 December 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-17, 39 and 40 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-10, 15-17, 39 and 40 is/are rejected.

7) Claim(s) 11-14 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

1. This office action is in response to Applicant's amendment filed December 22, 05. Claims 18-38 have been canceled as indicated in the Applicant's remarks; however, no preliminary amendment has been received. Claims 1 and 17 have been amended. The terminal disclaimer has been reviewed and approved.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

3. Claims 1-17 and 39-40 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Glidewell et al. (US Patent No. 5,319,698) (cited by applicant) in view of Kass et al. (US Patent No. 5,189,392) and Breed et al. (US Patent No. 6,179,326).

Claim 1:

Glidewell et al. (Glidewell) discloses a system comprising:

- a. At least one sensor assembly 16 for detecting contamination in ambient air, the sensor assembly including a communication device 24,26 that produces a first emergency signal upon determining the existence of the pre-determined level of toxic contamination
- b. A central processor 18 including:

- i. A receiving device 56 for receiving the first emergency signal from the communicating device of the sensor assembly
- ii. A least one transmitter 20 capable of transmitting a second emergency signal

The reference fails to disclose (a) at least one deactivation device to suspend operation of an appliance and (b) at least one activation device energized in response to the second emergency device operating to reduce the level of toxic contamination within the home.

Regarding (a), the concept of deactivating a appliance which is the source of causing the detected substance is conventional in the art as taught by Kass et al. wherein a gas valve is closed to interrupt a fuel supply to combustion unit when a predetermined amount of carbon monoxide is detected. In light of this teaching, one skilled in the art would have readily recognized incorporating this concept in the system of Glidewell because it would help to correct the problem as soon as possible, even before a monitoring personnel arrives.

Regarding (b), neither Glidewell nor Kass discloses an activation device energized in response to the second emergency signal to operate to reduce the level of toxic communication within the home. However, the idea of using an exhaust fan to expel toxic gas to the exterior of a dwelling is well known in the art as taught by Breed wherein when harmful gas is detected, a device is energized to break the windows (figure 11A and 11B) of a vehicle and to use an exhaust fan expel the toxic gas built up inside the vehicle. In light of this teaching, it would have been obvious to one skilled in the art to apply this concept in the system of Glidewell and Kass because it further enhance the safety feature of the system.

Claim 2:

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It appears that the sensor assembly and the central processor in Glidewell do not form a single unit construction. However, the ideas of making a system integral or separate would not constitute an inventive step. Thus, it would have been obvious to one skilled in the art to form the central processor 18 and sensor 16 in one single unit as desired, the function of the device would not thereby be modified.

Claim 3:

In Glidewell, a plurality of sensor assemblies is in electronic communication with the central processor.

Claim 4:

Though it is not clear whether each one of the sensors in Glidewell are located near each one of the appliances or not, it would have been obvious to one skilled in the art to locate each sensor approximate appliances in the combined system of Glidewell and Kass because it would give clear indication of which one of the appliances is exactly the source of the problem so that appropriate corrective actions can be taken. Further, Glide implicitly suggests this feature since it favors the identification of particular assembly.

Claim 5:

It would have been obvious to one skilled in the art to have a corresponding one of plurality of deactivation devices to suspend operation of the appliance because it is only necessary to stop the source that causes the problem.

Claim 6:

The first emergency signal produced by the sensor is identifiable by the central processor.

Claim 7:

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It would have been obvious to one skilled in the art to deactivate only the appliance which causes the problem because it is not necessary to shut down the entire appliances within the dwelling.

Claim 8:

The deactivation device in Kass includes a shut off mechanism, wherein the appliance is a gas-operated appliance, the shut-off mechanism operating to suspend gas flow to the gas-operated appliance.

Claim 9:

The messaging unit 68 is a telephone unit capable of dialing an emergency number and playing a pre-recorded message upon receipt of the second emergency signal from the central processor.

Claim 10:

The combined system as discussed above includes an air evacuation apparatus to assist in reducing the level of toxic contamination from the vehicle. One skilled in the art would have readily recognized the use of the combined system in a house because it is also desirable to evacuate dangerous air from a house for safety.

Claim 15:

The contaminated air in Breed is a toxic gas.

Claim 16:

The toxic gas is carbon monoxide.

Claim 17:

Glidewell et al. (Glidewell) discloses a system comprising:

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- a. A plurality of sensor assemblies 16 for detecting contamination in ambient air, the sensor assembly including a communication device 24,26 that produces a first emergency signal upon determining the existence of the pre-determined level of toxic contamination
- b. A central monitoring means 18 capable of receiving 56 the first emergency signal from the communication device of the sensor assembly and transmitting a second emergency signal.

The reference fails to disclose (a) means for activating an air evacuation device and (b) means for deactivating an appliance upon receipt of the second emergency signal from the central monitoring means.

Regarding (a), neither Glidewell nor Kass discloses an activation device energized in response to the second emergency signal to operate to reduce the level of toxic communication within the home. However, the idea of using an exhaust fan to expel toxic gas to the exterior of a dwelling is well known in the art as taught by Breed wherein when harmful gas is detected, a device is energized to break the windows (figure 11A and 11B) of a vehicle and to use an exhaust fan expel the toxic gas built up inside the vehicle. In light of this teaching, it would have been obvious to one skilled in the art to apply this concept in the system of Glidewell and Kass because it further enhance the safety feature of the system.

Regarding (b), the concept of deactivating a appliance which is the source of causing the detected substance is conventional in the art as taught by Kass et al. wherein a gas valve is closed to interrupt a fuel supply to combustion unit when a predetermined amount of carbon monoxide is detected. In light of this teaching, one skilled in the art would have readily recognized

incorporating this concept in the system of Glidewell because it would help to correct the problem as soon as possible, even before a monitoring personnel arrives.

Claim 39:

Messaging unit 60 is energized in response to the second emergency signal from the central processor transmitter, the messaging unit operates to notify emergency personnel that the sensor assembly has detected the predetermined level of toxic contamination.

Claim 40:

Messaging unit 60 is energized in response to the second emergency signal from the central processor transmitter to alert emergency personnel.

Allowable Subject Matter

4. Claims 11-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's Remarks

5. The Applicant has asserted that the *prima facie* case of obviousness has not been established in the rejection and has submitted that Breed is directed to an airbag deployment system in a vehicle. The applicant has stated the the sensor system in Breed does not detect conditions such as those disclosed in Glidewell and Kass, but instead is configured to detect the occurrence of a vehicular crash. The applicant has argued that the system in Breed is designed to

respond to a particular event, and it is not designed to monitor or sense conditions independent of that particular event.

Response to Applicant's Remarks

6. Applicant's arguments filed 12/22/05 have been fully considered but they are not persuasive.

It is submitted that the reference to Breed is used to provide a teaching that the activation of a device to decrease the toxic substance in an enclosed space to reduce hazard is well known in the art, therefore, one of ordinary skilled in the art would have readily recognized applying this concept in the combined system of Glidewell and Kass since it is common method for reducing toxic substance in an enclosed space.

Regarding the *prima facie* case of obviousness, it should be noted that a *prima facie* case of obviousness is established when the teaching of the prior art would appear to have suggested the claimed subject matter to a person of ordinary skill in the art. The combined teachings of prior art need not provide an absolute prediction of success for the claimed subject matter. Instead, only reasonable likelihood of success is required (*In re Ball Corporation*, 18 USPQ, 2d 1491). In response to applicant's argument that there is no suggestion or motivation to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071,

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5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, one skilled in the art would have readily recognized combining the teaching in Breed in Glidewell and Kass because it is a common sense to open a enclosed space to reduce toxic substance present within the space.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julie Lieu
Primary Examiner
Art Unit 2636

May 12, 05